

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In Re: )  
)  
Amendment of Section 73.606(b) )  
of the Commission's Rules, the )  
Table of Allotments for Analog )  
Television Broadcast Stations )  
(Jackson, Mississippi) )

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch  
Mass Media Bureau

PETITION FOR RULE MAKING

The majority of the applicants (i.e., 7 out of the 9 mutually exclusive applicants) with pending mutually exclusive applications for a new commercial full power analog television station on Channel 51 at Jackson, Mississippi (the "Joint Applicants"),<sup>1</sup> by their counsel, and pursuant to Section 1.401 of the Commission's rules, 47 C.F.R. § 1.401, and the Commission's Public Notices regarding a window for filing petitions for rule making to change analog television allotments that may conflict with digital television ("DTV") station allotments, authorizations, applications, or rule making proposals,<sup>2</sup> hereby petition the Commission to amend the Table of

<sup>1</sup> The Joint Applicants include: KM Communications, Inc. (File No. BPCT-960930LW), Fant Broadcast Development, L.L.C. (File No. BPCT-960722KJ), Marri Broadcasting, L.P. (File No. BPCT-960920LT), WinStar Broadcasting Corp. (File No. BPCT-961001UU), George S. Flinn, Jr. (File No. BPCT-961001UV), United Television, Inc. (File No. BPCT-961001UW) and Natchez Trace Broadcasting Company (File No. BPCT-960710KU).

<sup>2</sup> See Public Notice, Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations, DA 99-2605 (released November 22, 1999)(the "Amendment Public Notice"); see also, Public Notice, Window Filing Opportunity For Certain Pending Applications and Allotment Petitions for New Analog TV

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Allotments for analog television broadcast stations to substitute Channel 59 for Channel 51 at Jackson, Mississippi, and to authorize the Joint Applicants to amend their pending applications for Channel 51 to specify operation on Channel 59 without subjecting their applications to competing applications. In support of this petition for rule making, the Joint Applicants submit the following:

1. Each of the Joint Applicants have tendered for filing and have pending an application for a construction permit for a new commercial analog television station on Channel 51 at Jackson, Mississippi. Since the reference coordinates for Jackson are within the minimum co-channel separation distance for Zone II of 174.5 miles (or 280.8 kilometers) from New Orleans, Louisiana, one of the 30 designated television markets subject to the Commission's freeze in the advanced television ("ATV") proceeding (i.e., an "ATV freeze zone"),<sup>3</sup> each of the Joint Applicants specified a transmitter site outside of, and/or requested a waiver of, the ATV freeze in their respective applications.

2. In the DTV proceeding, the Commission stated that it would open a filing window, announced by Public Notice, during which pending analog full power television applications in an ATV freeze zone that would conflict with a DTV station allotment, authorization, application or rule making proposal could be amended to eliminate the DTV conflict, or could file a petition for rule making for an alternate channel below Channel 60 if necessary to avoid the DTV

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Stations Extended to July 15, 2000, DA 00-536 (released March 9, 2000).

<sup>3</sup> See Advanced Television Systems, Mimeo No. 4074, 52 Fed. Reg. 28346 (1987).

conflict.<sup>4</sup> The Amendment Public Notice implements this Commission decision, permitting ATV freeze area applicants to file a petition for rule making to substitute a new channel below Channel 60.<sup>5</sup>

3. The Commission stated that it would require ATV freeze applicants to demonstrate that interference to a DTV station allotment, authorization, application or rule making proposal would be caused if the proposed channel substitution is not made.<sup>6</sup> As demonstrated by the attached Engineering Report,<sup>7</sup> the Joint Applicants' analog Channel 51 application proposals would cause interference to the co-channel DTV Channel 51 allotment for WLBT-DT, Jackson, Mississippi.<sup>8</sup> However, the Joint Applicants note that WLBT-DT has filed and has pending a petition for rule making to change its DTV allotment to another channel; the Joint Applicants therefore request that this petition for rule making be held in abeyance, and if the WLBT-DT petition for rule making is ultimately successful, the Joint Applicants would request the dismissal of this petition and remain on the currently allotted Channel 51.

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<sup>4</sup> See Advanced Television Systems and Their Impact on the Existing Television Broadcast Service, MM Docket No. 87-268, Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, FCC 98-315, 13 FCC Rcd 23992, 14 CR 674 at ¶¶ 40-42 (1998)(the "DTV Second MO&O").

<sup>5</sup> See Amendment Public Notice at 4-6.

<sup>6</sup> See DTV Second MO&O at ¶ 42; see also, Amendment Public Notice at 4.

<sup>7</sup> See Engineering Report dated July 2000 and prepared by Cohen, Dippell & Everist, P.C., attached hereto as Exhibit A (the "Engineering Report").

<sup>8</sup> See Engineering Report at 1. Since DTV Channel 51 has been allotted to WLBT-DT at Jackson, which is the same channel and community as the current analog Channel 51 allotment at Jackson, an analog Channel 51 operation would obviously cause "widespread interference" to WLBT-DT. Id. Therefore, the Joint Applicants submit that a detailed interference study should not be required, but would be submitted if requested by the Commission.

4. The Commission also stated that all mutually exclusive applicants with pending full power analog applications subject to the ATV freeze must agree on the channel to be substituted, and that any petition for rule making must propose a single alternate channel below Channel 60.<sup>9</sup> The Joint Applicants note that 2 of the 9 applicants declined to agree to the proposed use of Channel 59, due to conflicts with their other broadcast interests; however, the overwhelming majority of applicants (i.e., 7 out of 9) have joined in the Petition. Therefore, the Joint Applicants respectfully request that the Commission consider their petition and the request for Channel 59, in conjunction with any other channel that other applicants may request,<sup>10</sup> or at a minimum to consider either this Channel 59 proposal or any alternate proposal as a counterproposal. The Joint Applicants submit that the public interest would best be served if the Commission allows all proposals to proceed to the Notice of Proposed Rule Making stage, where alternate proposals may be considered as counterproposals, to determine the most preferential arrangements of allotments rather than to dismiss the pending applications and remove the potential for a new television broadcast service for Jackson. Furthermore, the Joint Applicants note, as discussed above, that if WLBT-DT succeeds in changing its DTV Channel 51 allotment to an alternate channel, no channel substitution will be necessary in the first instance, and any petitions for rule making proposing an alternate channel may be dismissed.

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<sup>9</sup> See DTV Second MO&O at ¶ 42; see also, Amendment Public Notice at 5.

<sup>10</sup> The Joint Applicants note that the alternate channel(s) advanced by the 2 applicants that did not join in this petition for rule making all required a severe site restriction, requiring sites located within 12 kilometers of an existing first-adjacent channel DTV allotment in the market, and/or required engineering that there was not sufficient time to have prepared once the 2 applicants made their objections to Channel 59 known.

5. As required by the Amendment Public Notice and Sections 73.610 and 73.623(c) of the Commission's rules, 47 C.F.R. §§ 73.610 and 73.623(c),<sup>11</sup> the Engineering Report demonstrates that the proposed allotment of Channel 59 to Jackson meets all legal and technical requirements, including the minimum distance separation requirement to all other analog television stations,<sup>12</sup> and protects all DTV stations without any allowance for even *de minimis* interference.<sup>13</sup>

6. Each of the Joint Applicants hereby state their present intention to amend their pending applications to specify operation on Channel 59, if analog Channel 59 is substituted for Channel 51, during the time period specified by the Commission in its allotment order, as required by the Commission.<sup>14</sup>

7. The Joint Applicants submit that grant of this petition for rule making and the substitution of analog Channel 59 for Channel 51 at Jackson, Mississippi would serve the public interest by permitting the initiation of a new commercial television service serving Jackson and surrounding communities, without causing interference to any other existing station or any DTV station allotment, authorization, application or petition for rule making. Therefore, the public interest would be served by the grant of this petition.

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<sup>11</sup> See Amendment Public Notice at 5.

<sup>12</sup> See Engineering Report at 1 and Table I.

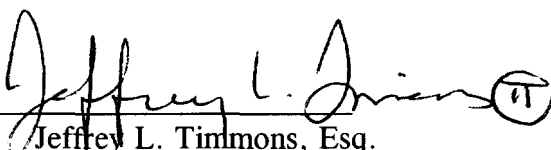
<sup>13</sup> See Engineering Report at 1-2 and Tables II and III.

<sup>14</sup> See DTV Second MO&O at ¶ 42; see also, Amendment Public Notice at 6.

8. Wherefore, the above premises being considered, the Joint Applicants request that the Commission grant this petition for rule making; amend Section 73.606(b), the Table of Allotments for analog television broadcast stations, to substitute Channel 59 for Channel 51 at Jackson, Mississippi; and authorize the Joint Applicants to amend their pending applications for Channel 51 at Jackson, Mississippi to specify operation on Channel 59 without subjecting their applications to competing applications.

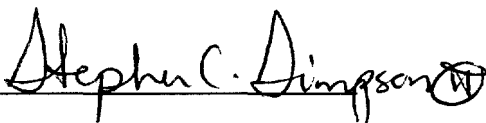
Respectfully submitted,

KM Communications, Inc.

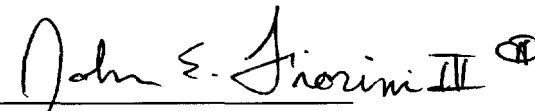
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ENGINEERING REPORT  
PETITION FOR RULE MAKING  
TO AMEND SECTION 73.606(b)  
OF THE FCC RULES BY SUBSTITUTING  
UHF-TV NTSC CHANNEL 59 FOR CHANNEL 51  
AT JACKSON, MISSISSIPPI

JULY 2000

COHEN, DIPPELL AND EVERIST, P.C.  
CONSULTING ENGINEERS  
RADIO AND TELEVISION  
WASHINGTON, D.C.



## COHEN, DIPPELL AND EVERIST, P. C.

City of Washington )  
 ) ss  
District of Columbia )

Warren M. Powis, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer of the University of Canterbury, New Zealand, a Registered Professional Engineer in the District of Columbia, the State of Virginia, the State of South Carolina, and Vice President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005; previously employed for 15 years with the New Zealand Broadcasting Corporation; a member of the Institution of Professional Engineers New Zealand (IPENZ), the Association of Federal Communications Consulting Engineers (AFCCE), and the National Society of Professional Engineers (NSPE).

That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and,

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.

Harvey M. Powis

Warren M. Powis  
District of Columbia  
Professional Engineer  
Registration No. 8339

Subscribed and sworn to before me this 14<sup>th</sup> day of July, 2000.

day of July, 2000.  
Carol L. Lyons  
 Notary Public

My Commission Expires: 2/28/2003

This engineering report has been prepared on behalf of the Joint Applicants for a new analog NTSC television station on Channel 51 at Jackson, Mississippi, in support of its petition for rule making to amend Section 73.606(b) of the FCC Rules and Regulations to substitute analog Channel 59 for the analog Channel 51 allotment for Jackson, Mississippi. The Joint Applicants Channel 51 applications are mutually exclusive with the co-channel Channel 51 DTV allotment for WLBT-DT, Jackson, Mississippi, located 20.3 km away. Since widespread interference would otherwise occur, the Joint Applicants propose to amend FCC Rule Section 73.606(b) as follows:

Jackson, Mississippi

Section 73.606(b) Substitute NTSC Channel 59 for Channel 51

The reference coordinates for the proposed new allotment at Jackson, Mississippi:

NAD-27

North Latitude: 32° 17' 54"

West Longitude: 90° 11' 30"

It is proposed to specify the Channel 59 allotment with a non-directional ERP of 5000 kW with a radiation center of 702 meters AMSL for an antenna height above average terrain of 609.6 meters.

Tables I and II show the allocation situation for the proposed NTSC Channel 59 allotment.

A study of predicted interference caused by the proposed NEW-TV service has been performed using a version of the Longley-Rice program as described in OET Bulletin No. 69 (July 2, 1997) and the Public Notice, "Additional Application Processing Guidelines for Digital Television (DTV)" (August 1998). The FCC's FORTRAN-77 code was modified only to the extent necessary (primarily input/output handling) for the program to run on a Windows98/Intel platform. Comparison

of service/interference areas and populations indicates that this model closely matches the FCC's evaluation program. Best efforts have been made to use data and calculations identical to the FCC's program. Any slight differences are attributable to compiler, operating system and/or processor characteristics. The effect of any variance in calculated population values versus the FCC's program is minimized when differencing a given model's results, e.g., new interference equals total interference less baseline interference. The effect is further reduced for ratios of calculated population values, e.g., incremental population affected as a percent of total population served. The model employs the Longley-Rice propagation methodology and evaluates in grid cells of approximately 4 km<sup>2</sup> using 3-second terrain data sampled approximately every 0.1 km at one degree azimuth intervals with 1990 census centroids.

Baseline NEW-TV: No station on Channel 59.

Proposed Change: Omni-directional Channel 59, 5000 kW, 609.6 meters HAAT,  
N 32°17'54", W 90°11'30"

The results are depicted in Table III and comply with Commission policy and rules.

Based on the Commission's Public Notice released June 2, 2000 (DA 00-1224) and the latest FCC CDBS data base, there are no eligible Class A low power television status stations between Channels 44 and 51 that conflict with the proposed Channel 59 allotment.

COHEN, DIPPELL AND EVERIST, P. C.

**TABLE I**  
**NTSC TO NTSC UHF-TV ALLOCATION SITUATION**  
**FOR THE PROPOSED SUBSTITUTION OF NTSC**  
**CHANNEL 59 FOR CHANNEL 51 AT**  
**JACKSON, MISSISSIPPI**  
**JULY 2000**

<u>Channel</u>	<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Geographic Coordinates</u>	<u>Separation</u>	
					<u>Actual</u> km	<u>Required</u> km
59	0	Prop.	Jackson, MS	32°17'54" 90°11'30"	—	—
44	-15	WDTL-TV	Greenville, MS	33°32'35" 90°50'48"	151.0	119.9
45	-14	App.	Columbia, MS	31°16'00" 89°49'56"	119.4	95.7
51	-8	None within 100 km				31.4
52	-7	None within 200 km				95.7
54	-5	None within 100 km				31.4
55	-4	None within 100 km				31.4
56	-3	None within 100 km				31.4
57	-2	None within 100 km				31.4
58	-1	None within 200 km				87.7
59	0	None within 450 km				280.8
60	+1	None within 200 km				87.7
61	+2	None within 100 km				31.4
62	+3	None within 100 km				31.4
63	+4	None within 100 km				31.4
64	+5	None within 100 km				31.4
66	+7	None within 200 km				95.7
67	+8	None within 100 km				31.4

COHEN, DIPPELL AND EVERIST, P. C.

TABLE II  
NTSC TO DTV UHF-TV ALLOCATION SITUATION  
FOR THE PROPOSED SUBSTITUTION OF NTSC  
CHANNEL 59 FOR CHANNEL 51 AT  
JACKSON, MISSISSIPPI  
JULY 2000

<u>Channel</u>	<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Geographic Coordinates</u>	<u>Separation</u>	
					<u>Actual km</u>	<u>Required km</u>
59	0	Prop.	Jackson, MS	32°17'54" 90°11'30"	—	—
58	-1	WHLT-DT	Hattiesburg, MS	33°24'20" 89°14'13"	134.0	106.0
59	0	WDIQ-DT	Dozier, AL	31°33'16" 86°23'32"	368.7	244.6
59	0	WHNT-DT	Huntsville, AL	34°44'19" 86°31'56"	434.6	244.6
60	+1	None within 250 km				106.0

TABLE III

NEW(TV), Jackson, MS

PROPOSED FACILITIES

Channel 59, ERP 5000 kW, HAAT 610 m, RCAMSL 702 m

Coordinates: 32° 17' 54" NL

90° 11' 30" WL

(NAD27)

July 2000

<u>Station/Allotment</u>	<u>Channel</u>	<u>ERP</u> kW	<u>HAAT</u> Meters	<u>Distance/Bearing</u> From Proposed Site	<u>Additional IX</u>
DTV Allotment Meridian, MS	44	50	369	105.1. km/99.5°	0.0%
WMAW-DT Meridian, MS BPEDT-20000501AHT	44	880	369	105.1. km/99.5°	0.0%
DTV Allotment Jackson, MS	51	1000	610	20.3. km/242.0°	0.0%
WLBT-DT Jackson, MS BPCDT-19990714LC	51	1000	634	20.3. km/242.0°	0.0%
DTV Allotment Jackson, MS	52	1000	497	21.0. km/252.2°	0.0%

COHEN, DIPPELL AND EVERIST, P. C.

TABLE III

NEW(TV), Jackson, MS

PROPOSED FACILITIES

Channel 59, ERP 5000 kW, HAAT 610 m, RCAMSL 702 m

Coordinates: 32° 17' 54" NL  
90° 11' 30" WL  
(NAD27)

July 2000  
(Continued)

<u>Station/Allotment</u>	<u>Channel</u>	<u>ERP</u> kW	<u>HAAT</u> Meters	<u>Distance/Bearing</u> From Proposed Site	<u>Additional IX</u>
WJTV-DT Jackson, MS BPCDT-19991025AEF	52	1000	464	21.0. km/252.2°	0.0%
DTV Allotment Hattiesburg, MS	58	52	244	134.0. km/137.5°	<0.1%
WHLT-DT Hattiesburg, MS BPCDT-19991025ADY	58	1000	213	134.0. km/137.5°	<0.1%
DTV Allotment Dozier, AL	59	1000	210	368.7. km/102.0°	<0.1%

COHEN, DIPPELL AND EVERIST, P. C.

**CERTIFICATE OF SERVICE**

I, Tracy Trynock, hereby certify that on this 17th day of July, 2000, copies of the foregoing "Petition for Rule Making" have been served by hand delivery or first class mail, postage prepaid, upon the following:

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